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Attorneys for City of Tulare Defendants

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JRYDEN LUKE FARRELL GARCIA, a
minor by and through his Guardian Ad
Litem, AMY SMITH; JESSE GARCIA,
SR.; and MONICA GARCIA,

Plaintiffs,

v.

COUNTY OF TULARE; CITY OF
TULARE; DEPUTY TIMOTHY
HOLDBROOK, individually and in his
official capacity as a Deputy Sheriff for
the Tulare County Sheriff's Office;
DEPUTY ERIK OSUNA, individually
and in his official capacity as a Deputy
Sheriff for the Tulare County Sheriff's
Office; DEPUTY MONIQUE
MENDOZA, individually and in her
official capacity as a Deputy Sheriff for
the Tulare County Sheriff's Office;
CORPORAL VINCENT MEDINA,
individually and in his official capacity as
a Police Officer for the Tulare Police
Department; OFFICER MARISSA
BOLANOS, individually and in her
official capacity as a Police Officer for
the Tulare Police Department; OFFICER
ANDREA MERCADO, individually and
in her official capacity as a Police Officer
for the Tulare Police Department;
OFFICER ALEXIS MACIAS,
individually and in her official capacity as
Police Officer for the Tulare Police

NO.

**DEFENDANTS' NOTICE OF
REMOVAL UNDER U.S.C.
SECTION 1441(b);
DECLARATION OF BRUCE D.
PRAET**

(Federal Question)

***[Incident & Parties Located Within
Tulare County]***

1 Department; OFFICER JUSTIN
2 HAMPTON, individually and in his
3 official capacity as a Police officer for the
4 Tulare Police Department; OFFICER
5 DANIEL GREWE, individually and in
6 his capacity as a Police Officer for the
7 Tulare Police; JESSE JAKIN GARCIA, a
minor, named herein as a Nominal
Defendant; and DOES 1 through 100,
Inclusive,
Defendants.

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9 TO: THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF
10 CALIFORNIA:

11 COMES NOW Defendants, City of Tulare, Corporal Vincent Medina,
12 Officer Marissa Bolanos, Officer Andrea Mercado, Officer Alexis Macias, Officer
13 Justin Hampton and Officer Daniel Grewe, who file this Notice of Removal of the
14 cause described herein from the Superior Court of the State of California for the
15 County of Tulare, in which it is now pending, to the United States District Court,
16 Eastern District of California. In support of such removal, Defendants respectfully
17 allege and show as follows:

- 18 1. Plaintiffs, JRYDEN LUKE FARRELL GARCIA, a minor by and
19 through his Guardian Ad Litem, AMY SMITH; JESSE GARCIA,
20 SR.; and MONICA GARCIA commenced this action in the Superior
21 Court of the State of California for the County of Tulare by filing, on
22 or about November 30, 2023, a Complaint alleging a violation of
23 decedent's civil rights under the 4th and 14th Amendments to the
24 United States Constitution, as well as various state torts. Plaintiffs'
25 complaint was assigned to the Tulare County Superior Court, Case
26 No. 3038147, and is attached hereto as Exhibit "A".

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- 1 2. Service of the Summons and Complaint in the above-entitled action
- 2 was accepted by the City of Tulare on December 11, 2023.
- 3 3. This action is properly removable to the United States District Court
- 4 in accordance with 28 U.S.C. 1441(a) in that this Court has original
- 5 jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. §
- 6 1331 and is one which may be removed to this Court by these
- 7 Defendants pursuant to the provisions of 28 U.S.C. § 1441(b) in that
- 8 it arises under constitutional provisions, specifically, the Complaint
- 9 alleges a violation of the 4th and 14th Amendments to the United
- 10 States Constitution. (See Exhibit "A").
- 11 4. The incident occurred in the County of Tulare which is located in the
- 12 Eastern District. Decedent and all Defendants reside in the Eastern
- 13 District as well.
- 14 5. This Notice of Removal to this Court is timely pursuant to 28 U.S.C.
- 15 § 1446(b) in that this Notice was filed before a responsive pleading
- 16 was filed and within thirty (30) days of Service of the Complaint, the
- 17 date that the Summons and Complaint was served on the Defendants.
- 18 These petitioning Defendants allege that they have good and
- 19 sufficient defenses to Plaintiffs' action herein.
- 20 6. No previous application has been made to this Court for the relief
- 21 sought herein.
- 22 7. Co-defendants County of Tulare and Deputies Timothy Holdbrook
- 23 and Erik Osuna have consented to removal.

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1 WHEREFORE, these petitioning Defendants respectfully pray that
2 Plaintiffs' action be removed from Superior Court of California for the County of
3 Tulare, to the United States District Court, Eastern District of California, as
4 provided by law.

5 DATED: December 18, 2023 FERGUSON, PRAET & SHERMAN
6 A Professional Corporation

7 By: /s/ Bruce D. Praet
8 Bruce D. Praet, Attorneys for
9 City of Tulare Defendants
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, Cathy Sherman, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action. My business address is 1631 East 18th Street, Santa Ana, California 92705-7101.

On December 18, 2023, I served the foregoing **DEFENDANTS' NOTICE OF REMOVAL UNDER U.S.C. SECTION 1441(b); DECLARATION OF BRUCE D. PRAET** on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Derek P. Wischart
Law Offices of Derek P. Wischart
2330 W. Main St.
Visalia, CA 93291
derek@dwisenhartlaw.com

John K. Jackson
Law Offices of John K. Jackson
900 W. Main St.
Visalia, CA 93291
Johnjacksonlaw@hotmail.com

Amy Myers
Tulare County Counsel
2900 W. Burrel Ave.
Visalia, CA 93291-4525
amyers1@tularecounty.ca.gov

XXX (By Mail) I placed such envelope for deposit in accordance with office practice, sealed, with postage thereon fully paid and the correspondence to be deposited in the United States mail at Santa Ana, California on the same day.

— (By e-filing) The above noted individuals are registered with the Court to receive notice of electronically filed documents. Per ECF rules, hard copies must be served only on parties who are not set up for electronic notification.

— (State) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

XXX (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 18, 2023, at Santa Ana, California.

/s/ Cathy Sherman
Cathy Sherman